

**IN THE UNITED STATES NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG DIVISION**

**JULIE ANN HAMSTEAD,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO.: 3:18-CV-79  
HON. JUDGE GINA M. GROH**

**WEST VIRGINIA STATE POLICE,  
TROOPER D.R. WALKER,  
in his official capacity,  
CITY OF RANSON, WEST VIRGINIA  
SARGEANT KEITH SIGULINSKY,  
CITY OF CHARLES TOWN, WEST  
VIRGINIA.  
MASTER PATROLMAN JASON  
NEWLIN, in his official capacity,  
THE WEST VIRGINIA DIVISION OF  
HIGHWAYS,  
RODNEY D. HEDRICK, SR., in his official  
capacity,  
KYLE REED KOPPENHAVER  
A.B., an unknown individual known as the  
WVDOH “Muscle Man” on the 2016  
Ranson-Charles Town Green Corridor  
Fairfax Blvd. Project,  
JEFFERSON CONTRACTING, INC., a  
corporation,  
JEFFERSON ASPHALT PRODUCTS  
COMPANY, a corporation,  
DALE DEGRAVE,  
ALLEN SHUTTS,  
JOHN TIMOTHY MORRIS,  
WVU HOSPITALS – East, Inc., d/b/a  
JEFFERSON MEDICAL CENTER,  
KELLY HALBERT, RN, and,  
X, Y and Z, unknown persons who  
conspired and/or aided and abetted in the  
fabrication  
of false criminal charges against Julie  
Hamstead,**

**Defendants.**

**DEFENDANTS' JOINT**  
**MOTION FOR PROTECTIVE ORDER**

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Defendants West Virginia State Police; Trooper D.R. Walker, in his official capacity; City Of Ranson, West Virginia; Sergeant Keith Sigulinsky; City Of Charles Town, West Virginia; Master Patrolman Jason Newlin, in his official capacity; The West Virginia Division Of Highways; Rodney D. Hedrick, Sr., in his official capacity; Jefferson Contracting, Inc., a corporation; Jefferson Asphalt Products Company, a corporation; Dale Degrave; Allen Shutts; John Timothy Morris; and The Charles Town General Hospital d/b/a Jefferson Medical Center (improperly denominated in the Complaint as Defendant WVU Hospitals-East, Inc. d/b/a Jefferson Medical Center) (collectively “Defendants”), by counsel, move the Court for a Protective Order to stay discovery and relieve them of the burden of responding to the discovery requests served by Plaintiff Julie Ann Hamstead (“Plaintiff”) pending resolution of Defendants’ dispositive motions (“Defendants’ Motions”) currently before the Court.<sup>1</sup>

“It is well-settled that ‘a protective order under Rule 26(c) to stay discovery pending determination of a dispositive motion is an appropriate exercise of the court's discretion.’” *Sheehan v. United States*, No. 5:11CV170, 2012 U.S. Dist. LEXIS 47503 at \*3 (N.D. W. Va. April 4, 2012); *see also White v. RCS Recovery Servs. LLC*, No. 1:15-CV-140-IMK-JSK, 2015 U.S. Dist. LEXIS 123789 at \* 3 (N.D. W. Va. Sept. 15, 2015) (“It is well established that every district court may exercise broad discretion in staying cases in order to maintain control over its

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<sup>1</sup> Defendants’ Motions include: (i) *Defendants West Virginia State Police and Trooper D.R. Walker’s Motion to Dismiss First Amended Complaint* (Doc. #40); (ii) *Defendants City of Ranson’s and Sergeant Keith Sigulinsky’s Motion to Dismiss in Lieu of Answer* (Doc. #48); (iii) *Defendant Master Patrolman Jason Newlin and City of Charles Town’s Motion to Dismiss Plaintiff’s First Amended Complaint in Lieu of Answer* (Doc. #34); (iv) *Rodney Hedrick’s and West Virginia Division of Highway’s Motion to Dismiss Plaintiff’s First Amended Complaint* (Doc. #44); (v) *Motion to Dismiss Claims Asserted Against Jefferson Contracting, Inc. Jefferson Asphalt Products Co., John Timothy Morris, Allen Shutts, and Dale DeGrave* (Doc. #51) ; and (vi) *The Charles Town General Hospital D/B/A/ Jefferson Medical Center’s Motion To Dismiss Plaintiff’s First Amended Complaint*.

docket and preserve judicial resources. This may include staying discovery until preliminary issues (including dispositive motions) are resolved.”). The Court may “balanc[e] the harm produced by a stay of discovery against the possibility that the motion to dismiss will be granted and entirely eliminate the need for such discovery.” *Sheehan*, at \*5. This is exactly the case in which a protective order is warranted.

Staying discovery pending a decision on the motions to dismiss will also preserve the immunities pled by governmental Defendants. Defendants associated with the State of West Virginia, City of Ranson, West Virginia, and City of Charles Town, West Virginia have argued that they are entitled to qualified or statutory immunity. *See* ECF Nos. 35, 43, 49.

Both federal and state law recognizes that one of the purposes of the immunity doctrine is to prevent an immune defendant from having to go through the burden of discovery. *Sigman v. Town of Chapel Hill*, 161 F.3d 782, 786 (4th Cir. 1998) (“One of the purposes of immunity . . . is to spare a defendant not only unwarranted liability, but unwarranted demands customarily imposed upon those defending a long drawn out lawsuit.”) (quoting *Siebert v. Gilley*, 500 U.S. 226, 232 (1991)); *Mitchell v. Forsythe*, 472 U.S. 511, 526 (1985) (“Unless the plaintiff’s allegations state a claim of clearly established law, a defendant pleading qualified immunity is entitled to *dismissal before the commencement of discovery*.”) (emphasis added); *Hutchison v. City of Huntington*, 479 S.E.2d 649, 658 (1996) (“Immunities under West Virginia law are more than a defense to a suit in that they grant governmental bodies and public officials the right not to be subject to the burden of trial at all. The very heart of the immunity defense is that it spares the defendant from having to go forward with an inquiry into the merits of the case.”). Allowing discovery to commence while these Defendants’ motions to dismiss are pending could effectively nullify an important aspect of their claimed immunities.

Moreover, as set forth in Defendants' Motions, it is reasonable to anticipate that many, if not all, of Plaintiff's claims against Defendants will be dismissed pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiff has alleged numerous and sundry causes of action against all defendants that should not survive dismissal for the many reasons set forth in Defendants' Motions, which arguments are incorporated by reference. There would be no prejudice to Plaintiff by this request to stay discovery at this early juncture. Correspondingly, Defendants would be caused to incur needless time and expense in responding to Plaintiff's written discovery requests when such responses may not be necessary at all should this Court dismiss all of Plaintiff's claims against Defendants. At a minimum, if any claim were to survive, Plaintiff would not be entitled to conduct discovery as to all those claims that are dismissed. Accordingly, Plaintiff's written discovery requests to Defendants should be stayed until such time as all of Defendants' Motions currently before the Court are ruled upon.

Defense counsel have conferred in good faith with Plaintiff's counsel in an effort to resolve the issues presented by Defendants' Motion for Protective Order without court action. The parties were able to agree that Plaintiff's written discovery requests to all defendants would be deemed served as of June 20, 2018 (one day after the parties' Fed. R. Civ. P. 26(f) initial planning meeting) and filed a stipulation to that effect with the Court on June 6, 2018 (Doc. #22). However, counsel could not reach further agreement to stay written discovery pending a ruling on Defendants' Motions. At the parties' initial planning meeting on June 19, 2018, the matter again was briefly discussed among all parties without resolution as reflected in the Report of the Parties' Planning Meeting filed with this Court on June 28, 2018 (Doc. #46).

For the foregoing reasons, Defendants respectfully requests that the court grant this motion and issue an Order protecting Defendants from being required to respond to Plaintiff's

written discovery requests and staying all discovery pending the resolution of Defendants' Motions that are currently before the Court.

Respectfully submitted,

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THE WEST VIRGINIA DIVISION OF  
HIGHWAYS,  
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X, Y and Z, unknown persons who  
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Hamstead,**

**Defendants.**



**CERTIFICATE OF SERVICE**

I, Alex M. Greenberg, do hereby certify that the foregoing **DEFENDANTS' JOINT MOTION FOR PROTECTIVE ORDER** was served upon all parties via the CM/ECF Court System on this the 3rd day of July, 2018 to the following counsel of record:

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